

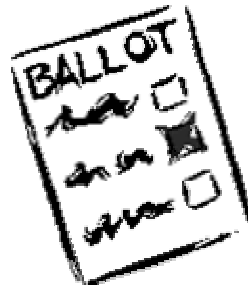
Welcome to...



Michigan Judicial Institute
2006 Judicial Elections Seminar & Webcast
January 17, 2006

Ballot Access, Petition, Circulation, & Affidavit Requirements

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Elections Specialist Analyst
Bureau of Elections
Department of State
517-241-4662



Ballot Access – Michigan's Election Law

- **Judicial Incumbents seeking the same office**
- **Other Judicial Candidates**

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Petition – Michigan's Election Law

- **Petition Signature Requirements**
- **Filling out Petitions**
 - **Heading**
 - **Entity or Signer Information**

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Circulation – Michigan's Election Law

- **Circulator's Certificate**
- **General Circulation Information**
- **Booklets on Standards for Petition Review**
 - **Circulating Petition Standards**
 - **City/Township Petition Standards**
 - **Countywide Petition Standards**

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Affidavit – Michigan's Election Law

- **Affidavit of Identity**
- **Affidavit of Constitutional Qualification**

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Conclusion – Michigan's Election Law

- **No news is good news: Candidates are only contacted if there are issues.**
- **File Early!**

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Filing for Candidacy, Campaign Reports, & Proper Contributions

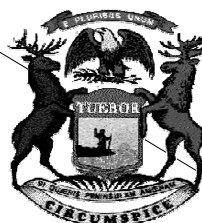


Ms. Elizabeth Newberry
Campaign Finance Analyst
Bureau of Elections
Department of State
517-373-9006

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CAMPAIGN FINANCE DISCLOSURE FOR JUDICIAL CANDIDATES

MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS



Statement of Organization – Completing the form

- Item 1 - Committee ID (issued by filing official upon receipt of form)
- Item 2 - Type of Filing
- Item 3 - Full Name of Committee (must include Candidate's first and last name)
- Item 4 - Candidate Name
- Item 4a - County
- Item 4b - Political Party (If applicable)
- Item 4c - Driver's License (Optional)
- Item 4d - Office Sought
- Item 4e - District # or Jurisdiction (if applicable) - indicate state, local or other office
- Item 5 - Date Committee Formed (S of O must be filed within 10 calendar days after this date)

Statement of Organization - Completing the Form

- **Item 6 - Committee Area Code and Phone**
- **Item 7 - Committee Mailing Address (May be a PO Box)**
- **Item 7a - Committee Street Address (Required if PO Box indicated in item 7)**
- **Item 8 - Treasurer Name, Address and Phone**
- **Item 9 - Designated Record Keeper Name, Address and Phone**
- **Item 10 - Reporting Waiver**
- **Item 11 - Depository (Michigan bank, credit union or savings and loan)**
- **Item 12 - Gubernatorial Committee Seeking Public Funding**
- **Item 13 - Electronic Filing**
- **Item 14 - Verification (Signatures)**

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Contributions and Limits – Definition

Michigan Campaign Finance Act

Sec. 4. (1) “Contribution” means a payment, gift subscription, assessment, expenditure, contract, payment for services, dues, advance, forbearance, loan, or donation of money or anything of ascertainable monetary value, or a transfer of anything of ascertainable monetary value to a person, made for the purpose of influencing the nomination or election of a candidate, or for the qualification, passage, or defeat of a ballot question.

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Contributions and Limits

Election Cycle Limits - State Level Offices

State Office	Individual or Political Committees	Independent Committees and District/County Political Party Committees	State Central Political Party Committees
Representative	\$500	\$5,000	\$5,000
Senator	\$1,000	\$10,000	\$10,000
Statewide*	\$3,400	\$34,000	\$68,000

*Does not apply to judicial offices other than Supreme Court or Gubernatorial Committee receiving Public Funding

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Contributions and Limits

Election Cycle Limits - Local and Judicial

Population of District for Office	Individual or Political Committee	Independent Committee and District/County Political Party Committees	State Central Political Party Committees
Up to 85,000	\$500	\$5,000	\$5,000
85,001 - 250,000	\$1,000	\$10,000	\$10,000
Over 250,000	\$3,400	\$34,000	\$34,000

Limits apply to all judicial offices other than supreme court

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Contributions and Limits (1A) Direct Contributions

- **All contributions of money must be disclosed (including candidate's) regardless of amount – anonymous contributions must be given to a tax exempt charity**
- **All contributions (both direct and in-kind) accumulate together toward contribution limits throughout the election cycle**
- **Contributions up to \$20.00 may be cash**
- **Contributions over \$20.00 must be by a written instrument (such as a check , credit card or money order)**

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Contributions and Limits (1-IK) In-Kind Contributions

- **A contribution of goods or services (not money)**
- **Value of goods or services counts toward contribution limits for the election cycle (accumulates with direct contributions - money)**
- **Value reported must reflect usual and normal market value (the value of special discounts count as an in-kind contribution)**
- **In-kind contributions must be disclosed regardless of the amount**

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Contributions and Limits Candidate and Immediate Family

- **Candidate and immediate family contributions are unlimited (to candidate's own committee)**
- **Immediate family means the candidate's spouse, a child residing in the candidate's home or a person claimed by the candidate or spouse as a dependent for federal tax purposes**
- **All candidate and immediate family contributions (direct and in-kind) must be disclosed – Loans must be designated as such when received**

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Contributions and Limits - Exceptions

- **A volunteer's personal services – no agreement to be reimbursed**
- **A volunteer's travel and lodging up to \$500 per year**
- **A volunteer's donation of food and beverages up to \$100 per year**

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Contributions and Limits

(1A-1) Other Receipts

- **Other Receipts include interest and loans from financial institutions, or refunds and rebates**
- **Other Receipts are not contributions to further the nomination or election of the candidate**
- **Other Receipts do not count toward contribution limits**

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Contributions and Limits

Election Cycles since the 2002 General Election

ELECTION DATE (Previous General)	NEXT ELECTION CYCLE BEGINS	ELECTION CYCLE ENDS (Next General)
11/5/02 (8 year cycle)	11/6/02	11/2/10
11/5/02 (6 year cycle)	11/6/02	11/4/08
11/5/02 (4 year cycle)	11/6/02	11/7/06
11/2/04 (2 year cycle)	11/3/04	11/7/06

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Contributions and Limits

Prohibited Contributions

- **Labor Organizations**
- **Corporations (Limited Liability Companies, Sole Proprietorships and Partnerships are allowed)**
- **Domestic Dependent Sovereigns (Indian Tribes)**
- **Public Body Funds or use of Public Facilities**
- **Detroit Casino and Supplier Licensees**
- **Foreign Nationals**
- **Other Candidate Committees (Tickets to another candidate's fundraiser are allowed - \$100/year max)**
- **Anonymous (Must be donated to a charity)**
- **Cash over \$20**
- **Earmarked**

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Contributions and Limits

Return of Contributions

- **Contributions returned to a contributor within 30 business days after the date of receipt are not viewed as a "contribution" under the Michigan Campaign Finance Act – receipt must be disclosed if it was deposited into the committee's account**
- **If funds are deposited, date received and date returned must be reported on the next campaign statement**
- **Funds returned before being deposited do not need to be reported**

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Expenditures – Definition

Michigan Campaign Finance Act:

Section 6(1) “Expenditure” means a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to, the nomination or election of a candidate, or the qualification, passage, or defeat of a ballot question.

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Expenditures – (1B) Direct Expenditures

- **Expenditures to a vendor or non-committee must be disclosed when the total exceeds \$50 for the reporting period**
- **All expenditures to a another committee are disclosed regardless of amount**
- **Expenditures over \$50 must be by written instrument**
- **Petty cash expenditures limited to \$50**

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Campaign Statements – Filing Statements

- Candidates without a reporting waiver must file - All Campaign Statements must contain a Cover Page and a Summary Page – Other Schedules provided as needed
- Campaign Statements that are hand delivered, sent by first class mail or filed electronically via the Internet must be received by 5:00 p.m. on the filing deadline
- Pre Election Statements sent by certified or registered mail or an overnight delivery service will be timely if postmarked 2 or more days before the filing deadline (or late fees apply)
- Post Election and Annual Statements sent by certified or registered mail or an overnight delivery service will be timely if postmarked on or before the filing deadline (or late fees apply)

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Campaign Statements – Filing Deadlines

- **Pre Election (or Convention) Statement**
Books Close 16 Days before election
Due 11 Days before election
- **Post Election (or Convention) Statement**
Books Close 20 Days after election
Due 30 Days after election
- **Annual Statement (Annual Waived when a Post General is filed in December)**
Books Close December 31
Due January 31
- **Late Contribution Report**
Covers period between the 15th and the 3rd day before an election - Due within 48 hours

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Campaign Statements – State Filing Deadlines

2006 PRIMARY ELECTION

07/23/06 - 2006 Pre Primary Statement Close of Books
07/28/06 - 2006 Pre Primary Statement Filing Deadline
08/08/06 STATE PRIMARY ELECTION DATE
08/28/06 - 2006 Post Primary Statement Close of Books
09/07/06 - 2006 Post Primary Statement Filing Deadline

2006 GENERAL ELECTION

10/22/06 - 2006 Pre General Statement Close of Books
10/27/06 - 2006 Pre General Statement Filing Deadline
11/07/06 - STATE GENERAL ELECTION DATE
11/27/06 - 2006 Post General Statement Close of Books
12/07/06 - 2006 Post General Statement Filing Deadline

2007 ANNUAL STATEMENT

12/31/06 - 2007 Annual Statement Close of Books
01/31/07 - 2007 Annual Statement Filing Deadline

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Campaign Statements - Late Contribution Reports

- If a committee receives a contribution from any single contributor (including the candidate) of \$200.00 or more from the 15th through the 3rd day before an election - a separate Late Contribution Report must be filed with the filing official within 48 hours of receipt by any written means (including fax):

08/08/06 Primary Election Late Contribution Reporting Period
07/24/06 (15th day) - 08/05/06 (3rd day)

11/07/06 General Election Late Contribution Reporting Period
10/23/06 (15th day) - 11/04/06 (3rd day)

- Contributions must still be disclosed on the Post Election Statement - File a separate report within 48 hours for each date on which a late contribution(s) was received - Late Contribution Report late filing fees accrue up to maximum of \$2000.00

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MERTS Plus Software – State Level Committees

- **Electronic filing of campaign finance statements became mandatory in 2004 for all committees that file with the Secretary of State and spend or receive \$20,000 or more**
- **MERTS PLUS software allows all committees (filing with the Secretary of State) to receive training, download software from the Internet, and file campaign statements electronically over the Internet or via diskette**
- **All cumulative, receipt and expenditure totals are automatically compiled by the software**
- **Committees that file with the Secretary of State may obtain the training and free software on the Web at: www.mertsplus.com**

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Identification Requirements on Ads

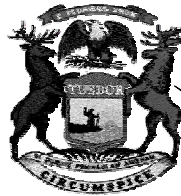
- **All paid political ads must contain an identifier (other than those paid for by individuals acting independently and not as an agent for a candidate or any committee)**
- **Print ads must contain - “Paid for by (Name and Address of Person or Committee)**
- **Broadcast ads must contain - “Paid for by (Name of Person or Committee)**
- **Detailed information concerning identification requirements and a list of exempted items provided in Candidate Committee Manual**

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Dissolving a Candidate Committee

- The committee must bring all debts and assets to \$0.00 and provide the date of dissolution on the Cover Page of the final report
- All required reports must be filed
- All outstanding notices and fees must be answered, paid or successfully appealed prior to dissolution
- Incumbents cannot dissolve their committees unless they are constitutionally or legally barred from seeking re-election or fail to file for re-election
- The Single-Page Dissolution Statement can only be used by committees with reporting waivers

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**MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS**

(517) 373-2540

www.michigan.gov/sos

www.mertsplus.com

THE END

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Campaign Timing, Management of Campaign Funds, Advertisement & Debates

Ms. Dawn M. Evans

Director of Professional Standards

State Bar of Michigan

517-346-6328



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Campaign Timing

A person is a candidate who:

- Files a fee, affidavit of incumbency, or nominating petition for an elective office
- Is nominated by a political party caucus or convention and that nomination is certified
- Receives a contribution, makes an expenditure, or gives consent for another person to receive a contribution or make an expenditure to bring about a person's nomination or election *whether or not the specific elective office is known at time of contribution or expenditure* **OR**
- Is an officeholder the subject of a recall vote

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Becoming a Candidate.....

Unless an officeholder is constitutionally or legally barred from seeking reelection or fails to file for reelection by the applicable deadline, an elected officeholder shall be considered a candidate for reelection to the same office for purposes of the Michigan Campaign Finance Act.

Once a candidate.....

- Within 10 calendar days, form a Candidate Committee.
- Within 10 calendar days of committee formulation, register the committee by filing a Statement of Organization

For excellent materials, go to:

http://www.michigan.gov/documents/Candidate_Committee_Manual2_57936

What is a Candidate Committee, from an ethics standpoint?

“.....responsible persons to secure and manage the expenditure of funds for the campaign and to obtain public statements of support for the candidacy.” [Canon 7(B)(2)(b)]

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Campaign Fundraising

Timing?

Funds can be solicited not earlier than February 15 of the year during which the election falls.

Funds can be neither solicited nor accepted after the date of the general election. All campaign contribution limits apply to an entire election cycle.

Who can solicit?

The candidate's committee

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Campaign Fundraising

The candidate:

CANNOT personally solicit or accept campaign funds

CANNOT solicit publicly stated support by improper use of judicial office [making pledges or promises of conduct in office other than the faithful and impartial performance of the duties of office]

CANNOT pay an endorsing organization for its ranking or endorsement

CANNOT personally sell or permit any court or public employee of any court to sell fund-raising tickets or accept contributions for the judge or any other judicial candidate

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Campaign Fundraising

The candidate's committee:

CANNOT directly or indirectly accept funds from any committee established to secure any other judicial or nonjudicial office the candidate sought

CANNOT solicit campaign contributions from lawyers in excess of \$100 per lawyer

CANNOT accept contributions from persons holding a casino interest, in a manner that violates the Michigan Casino Revenue and Control Act

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Campaign Fundraising

However....

Candidate committees can undertake solicitations for more than \$100 where the solicitation is **not directed exclusively to lawyers**, but to a group which may include lawyers, so long as a **disclaimer** of equal size to the language seeking funds is included with states:

“Canon 7 of the Michigan Code of Judicial Conduct prohibits a judicial campaign committee from soliciting more than \$100 per lawyer. If you are a lawyer, please regard this as informative and not a solicitation for more than \$100.”

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Campaign Fundraising

Endorsements:

A candidate may contribute campaign funds to pay some costs associated with the publication of the endorsement ***provided*** that before the ranking or endorsement is made the candidate is assured that the endorsing organization will not:

- demand payment as a condition of giving the endorsement or ranking
- seek assurance prior to making the endorsement that it will be paid if it endorses or ranks the candidate favorably
- add an additional endorsement of another candidate if the candidate doesn't pay
- prevent the candidate from publicizing the endorsement regardless of whether the organization itself publicizes it

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Campaign Fundraising

How can campaign funds be received?

Monetary donations of \$20.01 or more must be made by written instrument – such as a check or money order – which includes:

- ✓ Name of the person making the contribution
- ✓ Date of the contribution
- ✓ Amount
- ✓ Name of the committee accepting the donation

For credit card transactions, the Candidate Committee must record the same information as is required for checks or money orders.

Campaign Fundraising

How can campaign donations **NOT** be received?

- In cash amounts greater than \$20
- Anonymously
- As an “in-kind” contribution from a corporation, labor organization or a domestic dependent sovereign

Any contributions of funds, goods or services must be from a registered Independent or Political Committee of the Corporation, labor organization or domestic dependent sovereign.

Campaign Fundraising

Anonymous contributions received without name and address information must be donated to a tax exempt charitable organization – such as the Client Protection Fund or the Access to Justice Fund – and a receipt for such donation should be maintained in the Candidate Committee's records.

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Campaign Fundraising

Except for loans made to the Candidate Committee by financial institutions, loans are recorded as contributions.

Candidate Committees cannot make loans to other Candidate Committees.

Loans to the candidate endorsed or guaranteed by third parties count toward that party's contribution limit.

Direct questions about this to the Bureau of Elections.

517.373.2540

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Campaign Fundraising

Contribution limits are related to the population served by the judicial office.

A chart referencing populations, judicial offices, and applicable limits can be found on the Michigan Department of State website at:

www.michigan.gov/documents/limits_chart_-_local_candidates_650327_7.pdf

Campaign Fundraising

The candidate and members of his or her immediate family are exempt from the contribution limits. “Immediate family” includes a child residing in the candidate’s household, the candidate’s spouse, or an individual claimed as a dependent by the candidate or the candidate’s spouse for federal income tax purposes.

Campaign Fund Management

“Expenditures” are anything of monetary value spent by the Candidate Committee to influence the The nomination or election of the Candidate.

Examples of appropriate usage:

- **Costs associated with the publication of an endorsement that meets the requirements of Canon 7(B)(2)(g)**
- **Telephone charges**

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Campaign Fund Management

Examples of improper usage of funds:

A Candidate should not use or permit the use of campaign contributions for the private benefit of the Candidate or the Candidate’s family.

➤ *Some authority in the ethics area approving payment of family members for campaign work “necessary” and “commensurate with what others would be paid for..the same work”. [A/O 66 – April 16, 1986]*

The Candidate Committee cannot loan money to the Candidate or any other person.

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Campaign Fund Management

Also held unethical.....

The Candidate Committee cannot repay a loan made by a judge in connection with a previous election out of funds raised for the current campaign. [A/O 56 – September 12, 1984]

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Campaign Fund Management

Contributions should be deposited when received and appropriate records kept.

Expenditures of \$50.01 or more must be made by a written instrument such as a check or money order.

***Direct questions about recordkeeping to the Bureau of Elections.
517.373.2540***

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Campaign Fund Management

What to do about contributions which cannot be accepted ? [Such as those in amounts exceeding the limit for a particular contributor.]

Return them within 30 days. Funds returned without being deposited within that timeframe are not reported on the next Campaign Statement required to be filed. Funds deposited and later returned must be reported.

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Campaign Fund Management

Special rules apply to **fundraisers**

Special rules apply to **how a Candidate can contribute** to his or her Candidate Committee either as a direct contribution or as a loan.

*Direct questions about this to the Bureau of Elections.
517.373.2540*

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Campaign Fund Management

*If a Candidate is **UNOPPOSED** for judicial office, the Candidate or the Candidate's Committee shall return to contributors funds raised in excess of the actual costs incurred **OR** contribute such funds to the Client Protection Fund of the State Bar of Michigan no later than January 1 following the election.*

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Campaign Fund Management

*If a Candidate has funds remaining after payment of all campaign expenses, the Candidate or the Candidate's Committee shall return the funds to contributors **OR** contribute such funds to the Client Protection Fund of the State Bar of Michigan no later than January 1 following the election.*

➤NOTE: Excess funds cannot be used to finance a post-election investiture celebration. [JI-60 – December 1, 1992]

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Campaign Fund Management

As a practical matter, this means that all campaign expenses should be paid before the end of the election year so that it can be ascertained whether excess funds exist and a decision made as to whether to return the funds to Contributors or a donation made to the Client Protection Fund.

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Campaign Speech

REMEMBER that funds can be solicited not earlier than **February 15** of the year during which the election falls.

So, any communications sent prior to that time should not in any way solicit or invite contributions to the campaign.

58

Campaign Speech

DO *maintain the dignity appropriate to judicial office and encourage family members to adhere to the same standards*

DO NOT *permit public employees under the judge's direction or control from doing for the judge what the judge is prohibited from doing*

Campaign Speech

DO NOT *make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office*

DO NOT *knowingly, or with reckless disregard, use or participate in the use of any form of public communication that is false*

Campaign Speech

Republican Party of Minnesota v. White

Struck down an “announce clause” which proscribed a candidate’s announcing his or her views on disputed legal or political issues.

Michigan does not have an “announce clause”, instead opting for a “pledge or promise clause”.

...should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office [Canon 7(B)(1)(c)]

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Campaign Speech

In JI-131, issued February 7, 2005, the State Bar’s Ethics Committee stated that the state’s “pledge or promise” clause is ***presumably constitutionally valid and enforceable at the present time*** but that such a free speech prohibition ***must be narrowly construed and cautiously applied*** in light of the White opinion.

Several older ethics opinions were overturned, but the opinion cautions that the opinion does not condone a candidate’s commenting on any specific matter pending in the Court to which the candidate seeks election.

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Campaign Speech

Other provisions stricken in White II by the Eighth Circuit:

The “partisan-activities clause”

...shall not identify themselves as members of a political organization...(or) attend political gatherings...

The “solicitation clause”

...shall not personally solicit or accept campaign contributions or personally solicit publicly stated support

Campaign Speech

Because Michigan has provisions similar to those at issue in White II, it may be that those provisions are overturned at a future point in time. At present, however, the prudent course would advise against testing their enforceability.

Campaign Speech

What about debates?

A judicial candidate may participate in a public forum in the course of an election campaign, provided the candidate does not create the impression that, if elected or reelected, the candidate would act with bias or partiality toward a particular class or group. [JI-27 – August 1, 1990]

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After a Successful Campaign

A successful nonincumbent has until midnight December 31 following the election to wind up his or her law practice and until June 30 following the election to resign from organizations and activities and divest interests that do not qualify under Canons 4 or 5.

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After a Successful Campaign

Canon 4

Contains affirmative statements about activities judges may engage in (such as improving the legal system).

Canon 5

Includes financial and fiduciary activities a judge should refrain from.

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FYI

Both lawyers who run for judicial office and judges are subject to discipline for judicial campaign misconduct.

To pose ethical questions, contact the State Bar of Michigan's lawyers' and judges' helpline at:

1-877-558-4761

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Professional Excellence in a Judicial Campaign

Hon. Susan Moiseev

46th District Court

Southfield

Subcommittee on Professional Ethics

248-796-5820



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Professional Excellence

- Hire a professional as your campaign manager with experience in judicial elections
- Define the role...
 - for the campaign manager
 - for yourself

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Professional Excellence

- Maintaining professional excellence for your judicial office
 - Avoid impropriety & the appearance of impropriety
 - Know the canons & strictly adhere to them
 - Remember, as the candidate, you are responsible for many of the things done and said in your name!

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Professional Excellence

- Being a judge...
 - is a great job
 - an incredible honor
 - a great responsibility

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Professional Excellence

- As a judge, we have the responsibility of
 - “...establishing, maintaining, enforcing, and should personally observe high standards of conduct so that the integrity and independence of the judiciary may be preserved. A judge should always be aware that the judicial system is for the benefit of the litigants and the public, not the judiciary. ...”

Code of Judicial Conduct, Canon 1

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Questions & Answers

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